IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO. 7943 OF 2005 .

Fatmabai wd/o Mohiddin Bawa ... Petitioner.
V/s.
Mandakini G. Hule ... Respondent.

Shri Ashok K.Goel for the petitioner.

Shri S.D. Mogre with M.V. Chhedafor the respondent.

CORAM : V.C.DAGA, J.

DATED : 22.12.2005.

P.C. :

. Heard learned Counsel for the petitioner.

2. Petitioner has suffered concurrent findings of fact recorded by both the Courts below that the bonafide need has been established by the landlady. I was taken through the evidence of the parties including cross-examination therein. I was also taken through the impugned order passed by the Courts below. It is not possible to reach to the conclusion that the impugned order is a perverse order. The view taken is a reasonable and possible view. Each and every finding can be supported by evidence on record.

3. The Supreme Court in the case of Babhutmal Raichand Osawal vs. Laxmibai R. Tarte AIR 1975 SC 1297 observed as under:

> "It is a litigation between landlord and tenant and as is usual it has been fought to a bitter end. Much of the agony to which the tenant has been subjected in this litigation would have been spared if only the High Court had kept itself within the limits of its supervisory jurisdiction and not ventured into fields impermissible to it under Articles 226 and 227 of the Constitution."

It is thus clear that the High Court while exercising jurisdiction under Article 227 cannot interfere with the findings of fact recorded by the subordinate Court or Tribunal. Its function is limited to seeing that the subordinate Court or Tribunal functions with the limits of its authority. Considering the dicta of the Apex Court in this behalf, it is not possible to interfere with the impugned order passed by the Courts below. In this view of the matter, petition is devoid of any substance and the same is liable to be dismissed in limine with no order as to costs.

3. At this stage, learned Counsel for the petitioner sought time to approach higher Court. In this view of the matter, 8 weeks time is granted to the petitioner. Respondent not to execute decree for a period of 8 weeks from today. This time is granted to the petitioner subject to furnishing undertaking, undertaking to this Court athat in event petitioner fails in the higher Court, she shall vacate the suit premises without any demur.

Undertaking to be furnished within 3 weeks from today, and duly signed by all adult members of the family.

Certified copy expedited.